DISTRICT COURT OF THE UNITED STATES
EASTERN DISRICT NEW YORK

CLAUDETTE BOOTHE

Civil Action No: 16-CV-900
(PKC)(RML)

Plaintiff

-against -

AFFIDAVIT IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS

ROSSROCK FUNDS II LP, FLUSHING SAVINGS BANK, JAMES ROSS, JAMES H. ROSS, JASPAN SCHLESINGER LLP, " GILL CASTRO" known as "GILL CASTRO", FRANK DELL' AMORE, KEVIN ETZEL, GREGORY CERCHIONE, ET AL JOHN DOES 1-100, all persons unknown, claiming any legal or equitable right, title, estate, lien, or interest in the property described in the complaint adverse to plaintiff's title or any cloud on plaintiff's title thereto

Defendants,

PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTIONS TO DISMISS

Come now Plaintiff Claudette Boothe, by and through the undersigned counsel, and respond to Defendants Motion to Dismiss and urge this Honorable Court to deny these motions in their entirety, and argue as follows:

FACTS

1. Plaintiff s complaint and accompanying evidence clearly shows that the defendants named in this Civil Action violated Plaintiffs Civil and Constitutional Rights, violated Plaintiff's Immunities, committed several different kinds of fraud, violated both United States Laws and New York Laws, are guilty of malicious abuse of process, malicious prosecution, negligent intentional infliction of emotional abuse, and defamation, they

conspired to do same, while under "Color of Law" or "Color of Authority" as well as other Counts . The defendants have violated their Oaths of Office.

2. Further, Plaintiff, has shown that she has been a victim of a crime(s). Due to the illegal acts of the defendants, Plaintiff has suffered great financial loss, which has forced her into proceeding as a Pro Per litigant against her wishes and against her better judgment.
3. The defendants conspired to deprive Plaintiff of his Civil and Constitutional Rights, falsified reports, legal documents, Orders, thereby preventing Plaintiff from having meaningful access to the court.
4. The defendants, while acting under color of law , or color of statute , or color of authority conspired in the deprivation of Plaintiff's Civil Rights, their acts were negligent, malicious, vile and evil showing moral turpitude , with the intent of harm to the Plaintiff.
5. Plaintiff is not an attorney nor waives assistance of counsel And as a litigant proceeding without an attorney it has been held that plaintiff's pleading are to be afforded liberal pleadings standards. In effect this means that courts will look not so much at the artfulness in the drafting of the complaint as much as the substance of the purported claim. There is also a corollary to this doctrine: The courts have a general policy of determining actions on the merits. This Honorable Court has the power and authority to appoint legal representation, or perhaps legal counsel which Plaintiff may ask legal questions, to which Plaintiff would greatly welcome and would have no objections.
6. The facts with supporting evidence has been provided, undisputed against defendants. In their motion to dismiss defendants claim that they here are no violation of 42 U.S.C §1983. 42 U.S.C. § 1983, commonly referred to as "section 1983" provides:

"Every person who under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, Suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia."

7. The Act was intended to provide a private remedy for such violations of federal law, and has subsequently been interpreted to create a species of tort liability See Memphis Community School Dist. v. Stachura, 477 U.S. 299, 305 (1986) . This in direct contradiction to defendant's objection of plaintiffs relief requested.
8. The fact of the matter is that plaintiff civil rights were violated by defendant's acting in concert and collusion to deprive her of her right to access the courts and denial of due process before summarily disposing her of her property and forcefully removing her physically under duress threat and coercion. It appears that the defendants in their motion to dismiss is manipulating the judge by "Educating the Judge" about the law, this motion to dismiss should be denied as "the record is not developed and without a proper scope of interrogatories pursuant to Rules 26 to 37 of Title V of the Federal Rules of Civil Procedure (FRCP).

9. Plaintiffs' allegations are sufficient, at this stage in the litigation. Plaintiffs allege that they have suffered (and will continue to suffer) injuries in fact, which are concrete and particularized and actual or imminent.

THE COURT SHOULD EXERCISE SUPPLEMENTAL JURISDICTION OVER PLAINTIFFS' STATE-LAW CLAIM

10. Next, Defendants argue that the Court should decline to exercise supplemental jurisdiction over alleged violations of the certain State laws; see also 28 U.S.C. §1367(c) (Supplemental Jurisdiction). Although Defendants implicitly concede that the federal constitutional claim predominates over the state constitutional claim, they nevertheless urge the Court to decline exercising jurisdiction over the state claim on two bases — that the state claim raises a "novel or complex issue of State law" (see 28 U.S.C. §1367(c)(1)), and that this case involves "exceptional circumstances" (see 28 U.S.C. §1367(c)(4)). In defendants Motion to dismiss both arguments fail.

Generally, district courts have jurisdiction over pendant state claims. See 28 U.S.C. §1367(a); Palmer v. Hosp. Auth., 22 F.3d 1559, 1569 (11th Cir. 1994) ("Under the language of section 1367, whenever a federal court has supplemental jurisdiction under section 1367(a), that jurisdiction should be exercised unless section 1367(b) or (c) applies."); see also United Mine Workers v. Gibbs, 383 U.S. 715 (1966). Judicial economy is preserved by the maintenance of a single action rather than two cases with substantially similar evidence being presented twice. See L.A. Draper & Son v. Wheelabrator-Frye, Inc., 735 F.2d 414 (11th Cir. 1984) (ruling that judicial economy

weighs in favor of one action when the "same witnesses would have to introduce virtually identical testimony in a duplicative state proceeding").

11. There are pending State Supreme Court the causes of action as delineated in plaintiff's complaint pursuant to 28USC inter alia.
12. Defendants are not entitled to an injunction as an injunction will only further support the deprivation of plaintiff's right to access the courts.
13. Defendants argue and Plaintiff is in agreement in Point I of defenandt motion that " in order to state a § 1983 claim , a plaintiff must allege (1) that the challenged conduct was committed by a person acting under color of state law and that such conduct deprived the plaintiff of rights , privileges, or immunities secured by the constitution. Or laws of the United States….." This is precisely what happened as detailed in the plaintiff's complaint, police reports, reports to the US attorney's office, to Internal Affairs and other agencies who summarily as a result of said complaints became witnesses to the very act(s) defendant raises.
14. I have a right to be secure in my person and my property yet I was illegally evicted witout due process in a most violent manner under color of law by the NYPD. Who might I say did not get their marching orders from a warrant of eviction but instead received by a phone call and a personal text on one of the officer's phone from Gill Castro or other agent, employee from Rossrock Fund II LP.
15. Furthermore my private property was stolen from my apartment in the building under orders from Rossrock Fund II LP , Gill Castro and said stolen property an act of theft was of course supervised by the NYPD.

16. Doesn't the constitution say that private property cannot be taken without just compensation?
17. Defendant actually raises the question of Federal question or Civil Rico? Defendant raises the argument of private entity acting in concert with a state actor, hence basically admitting to the fact of their concerted efforts with the NYPD and other state actors acting under color of law to deprive plaintiff of her rights. They raise arguments such as " coercive power" of the state.."
18. On the contrary extremely or very close " nexus " between the state actors and the defendants has been alleged and documented by video inter alia and is being reviewed by other regulatory "State Actors".
19. In opposition to Point II of defendant's motion to dismiss plaintiff has offered documentary evidence and other evidence is still forthcoming such review by State agencies investigating video and other evidence of plaintiff' complaints.
20. In opposition to Point III of defendants Motion Plaintiff argues that the circuit court most especially the United States Court of Appeals for the Sixth Circuit8—have determined that RookerFeldman does not prevent the lower federal courts from reviewing state court judgments that were allegedly procured through fraud. Plaintiff has shown and demonstrated many times that the defendants obtained their state court judgement through fraud.
21. Therefore the defendant owes their triumph not to sound legal principles or even unsound ones but to fraud, thus the plaintiff is not really complaining of an injury caused by a state-court judgment, but of an injury caused by the winner's chicanery.
22. In Exxon Mobil, the Court clarified that not all actions dealing with the "same or

related question" resolved in state court are barred in federal court. See Exxon Mobil, 544 U.S. at 284.; See Bandes, supra note 2, at 1185 ("The jurisdictional nature of the doctrine means that courts either find it highly inflexible, or are readily able to claim inflexibility when they desire to do so."); See also Thomas D. Rowe, Jr., Rooker-Feldman: Worth Only the Powder to Blow it Up?, 74 NOTRE DAME L. REV. 1081, 1082 (1999) ("[T]he jurisdictional nature of Rooker-Feldman makes the doctrine's bar unwaivable and subject to being raised by the court on its own motion.") See also In re Sun Valley Foods Co., 801 F.2d 186 (6th Cir. 1986).

23. As stated in prior pleadings It is highly repugnant to the constitution and administration of justice to allow a fraudster to walk into federal court with admittedly unclean hands and then brashly pronounce the court's impotence to remedy the situation. Any such action warrants a redress of congress.

24. Plaintiff rebuts the presumption that she is estopped from asserting the claims set forth in the complaint and believes no such bar exists. This is not a second bite at the apple but an apple poisoned nonetheless by undue influence and collusion inter alia.

25. In opposition to point IV plaintiff reserves all of her rights to amend her complaint explicitly not prejudicing any. Any bar to amend plaintiff's complaint is akin to defenants continuing attempt to block plaintiff who is not an attorney from meaningful access to the court. See Conley v. Gibson, 355 U.S. 41 at 48 (1957)

"Following the simple guide of rule 8(f) that all pleadings shall be so construed as to do substantial justice"... "The federal rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and

accept the principle that the purpose of pleading is to facilitate a proper decision on the merits."

The court also cited Rule 8(f) FRCP, which holds that all pleadings shall be construed to do substantial justice. Davis v. Wechler, 263 U.S. 22, 24; Stromberb v. California, 283 U.S. 359; NAACP v. Alabama, 375 U.S. 449

"The assertion of federal rights, when plainly and reasonably made, are not to be defeated under the name of local practice." Elmore v. McCammon (1986) 640 F. Supp. 905

"... the right to file a lawsuit pro se is one of the most important rights under the constitution and laws."

Haines v. Kerner, 404 U.S. 519 (1972)

"Allegations such as those asserted by petitioner, however inartfully pleaded, are sufficient"... "which we hold to less stringent standards than formal pleadings drafted by lawyers."

26. Again in Point VII defendants continually are attempting to use the courts to bar plaintiff from seeking justice is that they have something to hide and wish to continue with impunity using the court system as like an accomplice to perpetrate their fraud. Defendants are overreaching by trying to manipulate the judge by raising the All Writs Act. However, unlike the doctrines of res judicata and collateral estoppel, which generally preclude the relitigation of issues that were raised or could have been raised in a prior suit, the Relitigation Exception permits an injunction only against a state proceeding that raises issues that were actually litigated before and decided by a

federal court. Consistent with that requirement, the exception authorizes an injunction both when the plaintiff "can only win [the] state suit by convincing the state court that the [prior] federal judgment was in error," and when a particular issue that is raised in the state proceeding previously was submitted to and decided in the federal suit. None of which has occured.

CONCLUSION

For all the foregoing reasons, this Court should deny Defendants Motion to Dismiss in its entirety.

RESPECTFULLY SUBMITTED,

Claudette Boothe – Pro Pia Persona

3221 Church Ave
Brooklyn , New York 11226
516-729-6667

DISTRICT COURT OF THE UNITED STATES
EASTERN DISRICT NEW YORK

CLAUDETTE BOOTHE

Civil Action No: 16-CV-900

Plaintiff

-against -

MEMORANDUM OF LAW & AUTHORITIES OF RIGHTS

ROSSROCK FUNDS II LP, FLUSHING SAVINGS BANK, JAMES ROSS, JAMES H. ROSS, JASPAN SCHLESINGER LLP, " GILL CASTRO" known as "GILL CASTRO", FRANK DELL' AMORE, KEVIN ETZEL, GREGORY CERCHIONE, ET AL JOHN DOES 1-100, all persons unknown, claiming any legal or equitable right, title, estate, lien, or interest in the property described in the complaint adverse to plaintiff's title or any cloud on plaintiff's title thereto

Defendants,

MEMORANDUM OF LAW & AUTHORITIES

Let it be known to all that I, Claudette Boothe explicitly reserves all of my rights as per UCC 1-308 but not limited to and Further, let all be advised that all actions commenced against me may be in violation of, …

USC TITLE 18 > PART I > CHAPTER 13 > § 242 Deprivation of rights under color of law

USC TITLE 18 > PART I > CHAPTER 13 > § 241 Conspiracy against rights

The United States Supreme Court case Boyd v. United States in 1922 proclaims the remedy of today's problems, when they said;

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> *"It is the duty of the courts to be watchful for encroachments against Constitutional rights"*; in Olmstead v. United States[1] the court stated further: *"Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrup-u-lous-ly. Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that, in the administration of the criminal law, the end justifies the means, to declare that the Government may commit crimes would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face."*

The present jury system has been seized by our servants that created a deceptive façade used to empower themselves and not the People. Bar schools teach judges and attorneys that statutes of men, far removed from the People, overrule the law of the land. While both prosecutor(s) and judge(s) impose their will upon judicially ignorant people as they require juries to interpret statutes as law without opportunity to nullify. Whereas common law requires that the jury should judge both law and facts. Bar attorneys are true believers that the People are incompetent in law when in fact they are more so.

Jefferson said:

> *"I know no safe depositary of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion by education. This is the true corrective of abuses of constitutional power."* He also said: *"An enlightened citizenry is indispensable for the proper functioning of a republic. Self-government is not possible unless the citizens are educated sufficiently to enable them to exercise oversight. It is therefore imperative that the nation see to it that a suitable education be provided for all its citizens."*

But our servants in government have deceitfully removed the education of "Self-government", who's motive can only be more power. Therefore we the People across the nation are Self-educating in order to perform our duty and save our nation. We reject any servant who arrogantly claims the People incompetent and that only they know what's best for us. We need to remind you we have government by the consent of the People and not by the consent of our servants and/or your BAR.

The People through the US Constitution gave no legislative authority to codify the administration of the jury. Common law requires that juries be chosen from an unfiltered pool

[1] Olmstead v. United States, 277 U.S. 438, 1928

from among the People by the People. The people when debating the body of the constitution, after discussions concerning the jury in the [anti]/federalist papers, deliberately left said authority out of the body, and then by design included unfettered authority by the People in the Bill of Rights as expressed in the 5th, 6th, and 7th Amendments, making clear the right of the people to administer to the jury for the trying of people and not government servants.

Bar lawyers will then say that, "*the bill of rights is for the federal courts only*", but this is where bar schools, for treasonous reasons I can only conclude, failed again by not teaching the law of the land, a/k/a supremacy clause, which is as follows:

> "***This Constitution***, *and the* ***laws of the United States*** *which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the* ***supreme law of the land***; *and the* ***judges in every state shall be bound thereby***, *anything in the* ***Constitution or laws of any State to the contrary notwithstanding***." **-- US Constitution Article VI**

Therefore common law is expressed in the supreme law of the land, whereas statutes that control the behavior and powers of the People are expressed in repugnant statutes that are "*null and void*". Marbury v. Madison, 5th US (2 Cranch) 137, 180:

It is the actions of our servants that are without lawful support, and that which you claim is legal, is unlawful. The assumptions that anyone, but our servants forming grand juries would lead to chaos and anarchy is both unfounded, self serving and treasonous. The idea that the legislature has established the method and process for forming grand juries and that the remedy of the People is the corrupt ballot box is also absurd and fraudulent.

Lysander Spooner, author of Trial by Jury, clearly a favorite read by past and present United States Supreme court Justices, in Chapter 5 said;

> "*The powers of juries are not granted to them, by the people themselves, on the supposition that they know the law better than the justices; but on the ground that the justices are untrustworthy, that they are exposed to bribes, are themselves fond of power and authority, and are also the dependent and subservient creatures of the legislature; and that to allow them to dictate the law, would not only expose the rights of parties to be sold for money, but would be equivalent to surrendering all the property, liberty, and rights of the people, unreservedly into the hands of arbitrary power, (the legislature,) to be disposed of at its pleasure.*"

In Chapter 6 Lysander Spooner said;

> "*The term jury is a technical one, derived from the common law; and when the American constitutions provide for the trial by jury, they provide for the common*

law trial by jury; and not merely for any trial by jury that the government itself may chance to invent, and call by that name. It is the thing, and not merely the name, that is guaranteed. Any legislation, therefore, that infringes any essential principle of the common law, in the selection of jurors, is unconstitutional; and the juries selected in accordance with such legislation are, of course, illegal, and their judgments void, therefore the juries of the present day illegal"

"*The powers of juries, therefore, not only place a curb upon the powers of legislators and judges, but imply also an imputation upon their integrity and trustworthiness; and these are the reasons why legislators and judges have formerly entertained the intense hatred of juries, and, so fast as they could do it without alarming the people for their liberties, have, by indirection, denied, undermined, and practically destroyed their power. And it is only since all the real power of juries has been destroyed, and they have become mere tools in the hands of legislators and judges, that they have become favorites with them. A Common Law jury, therefore, insures to us what no other court does --- that first and indispensable requisite in a judicial tribunal, integrity*".

And in Chapter 7 Lysander Spooner said;

"*The principle of chapter 28 of Magna Carta, as applicable to the governments of the United States of America, forbids that any officer appointed either by the executive or legislative power, or dependent upon them for their salaries, or responsible to them by impeachment, should preside over a jury in criminal trials. To have the trial a legal* (that is by common law) *and true trial by jury, the presiding officers must be chosen by the people, and be entirely free from all dependence upon, and all accountability to, the executive and legislative branches of the government. Therefore the foreman of the jury is properly the "Presiding Officer," so far as there is such an officer at all*".

We the People are the posterity of our founding fathers, the inheritors of the documents that created the government that you serve in, and we resent the attitude that the People are not capable of self-government.

Whereas we read, Declaration of Independence:

"*We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men,* ***deriving their just powers from the consent of the governed****, --That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing*

its powers in such form, as to them shall seem most likely to effect their Safety and Happiness …"

Therein it is the Peoples' right, and it is our duty to alter that which is destructive to our Safety and Happiness by returning to common law juries and common law courts as it is written in the Constitution for the fifty united States of America.

This is further realized in the preamble of our constitution that it is "**The People that ordained and established the law**" where we read:

> "*We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.*"

And with these absolutes we further submit the following authorities by which the judges in every state "**shall**" be bound:

The authority of the People to form and administer to grand and petit juries is an unalienable right protected and secured by the 5th 6th and 7th Amendments. Whereas we read:

> "*Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them*". Miranda v. Arizona[2]. "*The state cannot diminish rights of the people.*" Hurtado v. The People of the State of California[3]. "*All laws, rules and practices which are repugnant to the Constitution are null and void*" Marbury v. Madison, 1803[4].

In most State Constitutions an impartial jury is guaranteed, obviously when the government administers to the jury it can no longer be considered impartial, but tainted. How can it be when the government seeking a conviction by government paid lawmakers, government paid judges, government paid prosecutors, and government controlled juries that they call the jury impartial?

In the case UNITED STATES v. WILLIAMS, 1992[5]; Justice Antonin Scalia, writing for the majority said:

> "*This Court's cases relying upon that power deal strictly with the courts' control over their own procedures, whereas the grand jury is an institution separate from the courts, over whose functioning the courts do not preside, rooted in long*

[2] Miranda v. Arizona, 384 US 436, 491
[3] Hurtado v. People of the State of California, 110 U.S. 516.
[4] Marbury v. Madison, 5th US (2 Cranch) 137, 174, 176,(1803)
[5] UNITED STATES v. WILLIAMS; 112 S.Ct. 1735 504 U.S. 36 118 L.Ed.2d 352 (1992)

centuries of Anglo-American history, citing Hannah v. Larche[6]". Justice Antonin Scalia continued, "*courts neither preserve nor enhance the traditional functioning of the grand jury that the "common law" of the Fifth Amendment demands. The grand jury is mentioned in the Bill of Rights, but not in the body of the Constitution. It has not been textually assigned, therefore, to any of the branches described in the first three Articles. It 'is a constitutional fixture in its own right*, citing United States v. Chanen, 1977 quoting Nixon v. Sirica, 1973[7]. *In fact the whole theory of its function is that it belongs to no branch of the institutional government, serving as a kind of buffer or referee between the Government and the people*, citing Stirone v. United States, 1960; Hale v. Henkel, 1906; G. Edwards, The Grand Jury pgs 28-32 1906[8]".

Justice Antonin Scalia continued

"*Although the grand jury normally operates, of course, in the courthouse and under judicial auspices, its institutional relationship with the judicial branch has traditionally been, so to speak, at arm's length. The grand jury's functional independence from the judicial branch is evident both in the scope of its power to investigate criminal wrongdoing, and in the manner in which that power is exercised. "Unlike a court, whose jurisdiction is predicated upon a specific case or controversy, the grand jury can investigate merely on suspicion that the law is being violated, or even because it wants assurance that it is not*, citing United States v. R. Enterprises, 1991 quoting United States v. Morton Salt Co., 1950[9]. *The Grand Jury need not identify the offender it suspects, or even the precise nature of the offense it is investigating*, citing Blair v. United States, 1919[10]. *The grand jury requires no authorization from its constituting court to initiate an investigation nor does the prosecutor require leave of court to seek a grand jury indictment*, see Hale, supra[11]. *The grand jury in its day-to-day functioning generally operates without the interference of a presiding judge*, see Calandra, supra[12]. *The grand jury swears in its own witnesses and deliberates in total secrecy*, see United States v. Sells Engineering, Inc.,[13]. *We have insisted that the grand jury remain free to pursue its investigations unhindered by external influence or supervision so long as*

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[6] Hannah v. Larche, 363 U.S. 420, 490, 80 S.Ct. 1502, 1544, 4 L.Ed.2d 1307 (1960)

[7] United States v. Chanen, 549 F.2d 1306, 1312 (CA9 1977) (quoting Nixon v. Sirica, 159 U.S.App.D.C. 58, 70, n. 54, 487 F.2d 700, 712, n. 54 (1973)), cert. denied, 434 U.S. 825, 98 S.Ct. 72, 54 L.Ed.2d 83 (1977)

[8] Stirone v. United States, 361 U.S. 212, 218, 80 S.Ct. 270, 273, 4 L.Ed.2d 252 (1960); Hale v. Henkel, 201 U.S. 43, 61, 26 S.Ct. 370, 373, 50 L.Ed. 652 (1906); G. Edwards, The Grand Jury 28-32 (1906)

[9] United States v. R. Enterprises, 498 U.S. ----, ---- , 111 S.Ct. 722, 726, 112 L.Ed.2d 795 (1991) (quoting United States v. Morton Salt Co., 338 U.S. 632, 642-643, 70 S.Ct. 357, 364, 94 L.Ed. 401 (1950))

[10] Blair v. United States, 250 U.S. 273, 282, 39 S.Ct. 468, 471, 63 L.Ed. 979 (1919)

[11] Hale, supra, 201 U.S., at 59-60, 65, 26 S.Ct., at 373, 375

[12] Calandra, supra, 414 U.S., at 343, 94 S.Ct., at 617.

[13] United States v. Sells Engineering, Inc., 463 U.S., at 424-425, 103 S.Ct., at 3138

> *it does not trench upon the legitimate rights of any witness called before it,* citing United States v. Dionisio, 1973[14]. *Recognizing this tradition of independence, we have said that the Fifth Amendment's constitutional guarantee presupposes an investigative body 'acting independently of either prosecuting attorney or judge,* citing Stirone, supra[15]. *We have said that certain constitutional protections afforded defendants in criminal proceedings have no application before the Grand Jury, citing Ex parte United States, 1932; United States v. Thompson, 1920*[16]". *We have twice suggested, though not held, that the Sixth Amendment right to counsel does not attach when an individual is summoned to appear before a grand jury, even if he is the subject of the investigation*". United States v. Mandujano, 1976; In re Groban, 1957; Fed.Rule Crim.Proc. 6(d).[17]

In conclusion Justice Antonin Scalia said:

> "*Given the grand jury's operational separateness from its constituting court, it should come as no surprise that we have been reluctant to invoke the judicial supervisory power as a basis for prescribing modes of grand jury procedure. Over the years, we have received many requests to exercise supervision over the grand jury's evidence-taking process, but we have refused them all, we declined to enforce the hearsay rule in grand jury proceedings, since that "would run counter to the whole history of the grand jury institution, in which laymen conduct their inquiries unfettered by technical rules*"[18].

Hume calls the Trial by Jury

> "*An institution admirable in itself, and the best calculated for the preservation of liberty and the administration of justice, that ever was devised by the wit of man.*"

Therefore "We the People", affirm and proclaim the unalienable right to consent or deny the actions of our elected servants through the Common Law Jury as our founding fathers provided for in the 5th, 6th, and 7th Amendments. As Justice Antonin Scalia put it;

> "*The Grand Jury is in effect a fourth branch of government "governed" and administered to directly by and on behalf of the American people, and its authority emanates from the Bill of Rights it is a constitutional fixture in its own right*[19], *in*

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[14] United States v. Dionisio, 410 U.S. 1, 17-18, 93 S.Ct. 764, 773, 35 L.Ed.2d 67 (1973).
[15] . . ." Id., at 16, 93 S.Ct., at 773 quoting Stirone, supra, 361 U.S., at 218, 80 S.Ct., at 273
[16] See Ex parte United States, 287 U.S. 241, 250-251, 53 S.Ct. 129, 132, 77 L.Ed. 283 (1932); United States v. Thompson, 251 U.S. 407, 413-415, 40 S.Ct. 289, 292, 64 L.Ed. 333 (1920).
[17] United States v. Mandujano, 425 U.S. 564, 581, 96 S.Ct. 1768, 1778, 48 L.Ed.2d 212 (1976) (plurality opinion); In re Groban, 352 U.S. 330, 333, 77 S.Ct. 510, 513, 1 L.Ed.2d 376 (1957); see also Fed.Rule Crim.Proc. 6(d).
[18] Id., at 364, 76 S.Ct., at 409.
[19] United States v. Chanen, 549 F.2d 1306, 1312 (CA9 1977) (quoting Nixon v. Sirica, 159 U.S.App.D.C. 58, 70, n. 54, 487 F.2d 700, 712, n. 54 (1973)), cert. denied, 434 U.S. 825, 98 S.Ct. 72, 54 L.Ed.2d 83 (1977)

fact the whole theory of its function is that it belongs to no branch of the institutional government, serving as a kind of buffer or referee between the Government and the people". We the People demand that tyrant servants step aside.

I retain all of my rights and liberties at all times and in all places, nunc pro tunc (now for then) from the time of my birth and forevermore.

WHEREFORE all have undeniable knowledge.

Dated: 7/11/2016.

Signed. Claudette Boothe

Claudette Boothe – Sui Juris- Prop Pia Persona